IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 167 of 1997
With
SPECIAL CIVIL APPLICATION No. 1302 of 1997
With
SPECIAL CIVIL APPLICATION No. 1304 of 1997
With
SPECIAL CIVIL APPLICATION No. 10192 of 1996
With
SPECIAL CIVIL APPLICATION No. 10193 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIRUBEN NARANBHAI - Petitioner(s)
Versus
UNION OF INDIA & 4 - Respondent(s)

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Appearance :
MS KUSUM V VAGHELA for Petitioner(s) : 1,
MR JJ YAJNIK for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 4.
MR PV NANAVATI for Respondent(s) : 5,
MR VIBHUTI NANAVATI for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.C.PATEL

Date : 01/07/2006

COMMON ORAL JUDGMENT

The petitioners were the claimants in Motor Accident Claim Petitions No.291/89, 280/89, 246/89, 334/89 and 319/89 respectively before the Motor Accident Claims Tribunal, Jamnagar. The claims arose out of an accident between a Van and a Train at an unmanned railway crossing. The Tribunal, after recording evidence, by its judgment and award dated 4th September, 1996, found that the accident occurred as a result of the negligence on the part of the Van driver and held the driver and owner of the Van jointly and severally liable to pay the various amounts awarded in favour of the petitioners. However, the Tribunal dismissed the petitions against Insurance Company of the Van, the train driver and the Union of India.

2. Being aggrieved by the said judgment and award of the Tribunal, in so far as the insurance company, the train driver and Union of India were exonerated from liability, the petitioners have filed these Special Civil Applications under Article 226 of the Constitution of India.

3. However, the remedy of the petitioners was to file appeals under Section 173 of the Motor Vehicles Act. The present petitions cannot, therefore, be

entertained bypassing the said remedy by way of appeal. The petitions are, therefore, dismissed. Rule discharged.

(M.C. Patel, J.)

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